



General Assembly

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Fifty-second session
SIXTH COMMITTEE
Agenda item 151

REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE
UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE
OF THE ORGANIZATION

Draft resolution proposed by the Chairman of the Sixth Committee

Implementation of the provisions of the Charter of the United
Nations related to assistance to third States affected by the
application of sanctions

The General Assembly,

Concerned about the special economic problems confronting certain States arising from the carrying out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of Members of the United Nations under Article 49 of the Charter of the United Nations to join in affording mutual assistance in carrying out the measures decided upon by the Security Council,

Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution of those problems, in accordance with Article 50 of the Charter,

Recognizing the desirability of the consideration of further appropriate procedures for consultations to deal in a more effective manner with the problems referred to in Article 50 of the Charter,

Recalling:

(a) The report of the Secretary-General entitled "An Agenda for Peace",¹ in particular paragraph 41 thereof;

¹ A/47/277-S/24111; see Official Records of the Security Council, Forty-seventh Year, Supplement for April, May and June 1992, document S/24111.

(b) Its resolution 47/120 A of 18 December 1992, entitled "An Agenda for Peace: preventive diplomacy and related matters", its resolution 47/120 B of 20 September 1993, entitled "An Agenda for Peace", in particular section IV thereof entitled "Special economic problems arising from the implementation of preventive or enforcement measures", its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", in particular annex II thereof, entitled "Question of sanctions imposed by the United Nations";

(c) The position paper of the Secretary-General entitled "Supplement to an Agenda for Peace";²

(d) The statement by the President of the Security Council of 22 February 1995;³

(e) The report of the Secretary-General⁴ prepared pursuant to the note by the President of the Security Council⁵ regarding the question of special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter;

(f) The reports of the Secretary-General on economic assistance to States affected by the implementation of the Security Council resolutions imposing sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro)⁶ and General Assembly resolutions 48/210 of 21 December 1993, 49/21 A of 2 December 1994, 50/58 E of 12 December 1995 and 51/30 A of 5 December 1996;

(g) The 1994,⁷ 1995,⁸ 1996⁹ and 1997¹⁰ reports of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;

² A/50/60-S/1995/1; see Official Records of the Security Council, Fiftieth Year, Supplement for January, February and March 1995, document S/1995/1.

³ See Official Records of the Security Council, Fiftieth Year, Resolutions and Decisions of the Security Council, 1995, document S/PRST/1995/9.

⁴ A/48/573-S/26705; see Official Records of the Security Council, Forty-eighth Year, Supplement for October, November and December 1993, document S/26705.

⁵ See Official Records of the Security Council, Forty-seventh Year, Supplement for October, November and December 1992, document S/25036.

⁶ A/49/356, A/50/423 and A/51/356.

⁷ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 33 (A/49/33).

⁸ Ibid., Fiftieth Session, Supplement No. 33 (A/50/33).

⁹ Ibid., Fifty-first Session, Supplement No. 33 (A/51/33).

¹⁰ Ibid., Fifty-second Session, Supplement No. 33 (A/52/33).

(h) The reports of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter,¹¹

Taking note of the report of the Secretary-General submitted in accordance with General Assembly resolution 51/208 of 17 December 1996,¹²

Recalling that the question of assistance to third States affected by the application of sanctions has been addressed recently in several forums, including the General Assembly and its subsidiary organs and the Security Council,

Recalling also the measures taken by the Security Council in accordance with the statement by the President of the Security Council of 16 December 1994¹³ that, as part of the Council's effort to improve the flow of information and the exchange of ideas between members of the Council and other States Members of the United Nations, there should be increased recourse to open meetings, in particular at an early stage in its consideration of a subject,

Stressing that, in the formulation of sanctions regimes, due account should be taken of the potential effects of sanctions on third States,

Stressing also, in this context, the powers of the Security Council under Chapter VII of the Charter and the Council's primary responsibility under Article 24 of the Charter for the maintenance of international peace and security in order to ensure prompt and effective action by the United Nations,

Recalling that, under Article 31 of the Charter, any Member of the United Nations that is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Council whenever the latter considers that the interests of that Member are specially affected,

Recognizing that the imposition of sanctions under Chapter VII has been causing special economic problems in third States and that it is necessary to intensify efforts to address those problems,

Recognizing also that assistance to third States affected by the application of sanctions would further contribute to an effective and comprehensive approach by the international community to sanctions imposed by the Security Council,

Recognizing further that the international community at large and, in particular, international institutions involved in providing economic and

¹¹ A/50/361, A/51/317, A/52/308.

¹² A/52/308.

¹³ See Official Records of the Security Council, Forty-ninth Year, Resolutions and Decisions of the Security Council, 1994, document S/PRST/1994/81.

financial assistance should continue to take into account and address in a more effective manner the special economic problems of affected third States arising from the carrying out of preventive or enforcement measures taken by the Security Council under Chapter VII of the Charter, in view of their magnitude and of the adverse impact on the economy of those States,

Recalling the provisions of resolutions 50/51 of 11 December 1995 and 51/208 of 17 December 1996,

1. Renews its invitation to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States which are or may be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its methods and procedures applied in the consideration of requests by the affected countries for assistance;

2. Welcomes once again the further measures taken by the Security Council since the adoption of General Assembly resolution 50/51 and aimed at increasing the effectiveness and transparency of the sanctions committees and invites the Council to implement those measures, and strongly recommends that the Council continue its efforts further to enhance the functioning of those committees, to streamline their working procedures and to facilitate access to them by representatives of States that find themselves confronted with special economic problems arising from the carrying out of sanctions;

3. Requests the Secretary-General to pursue implementation of the provisions of General Assembly resolution 50/51 related to the possible guidelines that might be adopted on technical procedures to be used by the appropriate parts of the Secretariat, and paragraphs 4, 5 and 6 of resolution 51/208, and to continue, on a regular basis, to collate and coordinate information about international assistance available to third States affected by the implementation of sanctions, to continue developing a possible methodology for assessing the adverse consequences actually incurred by third States and to initiate action in order to explore innovative and practical measures of assistance to the affected third States;

4. Endorses the proposal of the Secretary-General that an ad hoc expert group meeting be convened in the first half of 1998 with a view to developing a possible methodology for assessing the consequences actually incurred by third States as a result of preventive or enforcement measures and in this connection requests that due regard be given by the expert group to the particular problems and needs of developing countries confronted by the special economic problems arising from carrying out enforcement measures and also endorses the recommendation of the Secretary-General that the expert group explore innovative and practical measures of assistance that could be provided by the relevant organizations both within and outside the United Nations system to the affected third States and requests the Secretary-General to submit a report on the results of the expert group meeting to the General Assembly at its fifty-third session;

5. Reaffirms the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts by the international community and the United Nations system to States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council and, as appropriate, in identifying solutions to the special economic problems of those States;

6. Invites the organizations of the United Nations system, international financial institutions, other international organizations, regional organizations and Member States to address more specifically and directly, where appropriate, special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter and, for this purpose, to consider improving procedures for consultations to maintain a constructive dialogue with such States, including through regular and frequent meetings as well as, where appropriate, special meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations;

7. Requests the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, at its session in 1998, to continue to consider on a priority basis the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, taking into consideration all the related reports of the Secretary-General,¹⁴ the proposals submitted on this subject, the debate on this question which took place in the Sixth Committee at the fifty-second session of the General Assembly and the text on the question of sanctions imposed by the United Nations contained in annex II to General Assembly resolution 51/242, and also the implementation of the provisions of General Assembly resolutions 50/51 and 51/208 as well as the provisions of the present resolution;

8. Requests the Secretary-General to submit a report on the implementation of the present resolution to the General Assembly at its fifty-third session.

¹⁴ A/48/573-S/26705; see Official Records of the Security Council, Forty-eighth Year, Supplement for October, November and December 1993, document S/26705; A/49/356; A/50/60-S/1995/1; see Official Records of the Security Council, Fiftieth Year, Supplement for January, February and March 1995; A/50/361, A/50/423, A/51/317 and A/52/308.



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Fifty-second session
SIXTH COMMITTEE
Agenda item 147

REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-NINTH SESSION

Draft resolution proposed by the Chairman

Report of the International Law Commission on the work of its forty-ninth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its forty-ninth session,¹

Emphasizing the importance of furthering the progressive development of international law and its codification as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,²

Emphasizing also the role of the International Law Commission in the fulfilment of the objectives of the United Nations Decade of International Law,

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission further to enhance their contribution to the progressive development of international law and its codification,

¹ Official Records of the General Assembly, Fifty-second Session, Supplement No. 10 (A/52/10).

² Resolution 2625 (XXV), annex.

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Stressing the usefulness of structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report,

Wishing to enhance further the interaction between the Sixth Committee as a body of government representatives and the International Law Commission as a body of independent legal experts, with a view to improving the dialogue between the two organs,

1. Takes note of the report of the International Law Commission on the work of its forty-ninth session,¹ and expresses its appreciation to the Commission for the work accomplished at that session, in particular for the completion of the first reading of draft articles on nationality of natural persons in relation to the succession of States and for the preliminary conclusions on reservations to normative multilateral treaties, including human rights treaties;

2. Draws the attention of Governments to the importance, for the International Law Commission, of having their views on all the specific issues identified in chapter III of the report¹ and in particular on:

(a) The draft articles on nationality of natural persons in relation to the succession of States adopted on first reading by the Commission, and urges them to submit their comments and observations in writing by 1 October 1998, as requested by the Commission;

(b) The preliminary conclusions of the International Law Commission on reservations to normative multilateral treaties, including human rights treaties;

3. Recommends that, taking into account the comments and observations of Governments, whether in writing or expressed orally in debates in the General Assembly, the International Law Commission should continue its work on the topics in its current programme;

4. Takes note of the invitation by the International Law Commission to all treaty bodies set up by normative multilateral treaties that may wish to do so to provide, in writing, their comments and observations on the preliminary conclusions of the International Law Commission on reservations to normative multilateral treaties, including human rights treaties;

5. Invites Governments to submit comments and observations on the practical problems raised by the succession of States affecting the nationality of legal persons in order to assist the International Law Commission in deciding

on its future work on this portion of the topic of "Nationality in relation to the succession of States";

6. Recalls the importance for the International Law Commission of having the views of Governments on the draft articles on State responsibility adopted on first reading by the Commission at its forty-eighth session in 1996;

7. Takes note of the decision by the International Law Commission to proceed with its work on "International liability for injurious consequences arising out of acts not prohibited by international law", undertaking, as a first step, the issue of prevention, and to reiterate its request to Governments to provide in writing, if they have not previously done so, their comments and observations on the topic of international liability, including the draft articles prepared by the Working Group of the International Law Commission at its forty-eighth session in 1996,³ in order to assist the Commission in its work on that topic;

8. Endorses the decision of the International Law Commission to include in its agenda the topics "Diplomatic protection" and "Unilateral acts of States";⁴

9. Welcomes with appreciation the steps taken by the International Law Commission in relation to its internal matters, and encourages it to continue enhancing its efficiency and productivity taking into consideration the discussion held in the General Assembly at its fifty-second session;

10. Takes note of the comments of the International Law Commission on the question of a split session for 1998, as presented in paragraphs 225 to 227 of its report;¹

11. Takes note also of the position of the International Law Commission contained in paragraph 228 of its report on the duration of its future sessions;

12. Requests the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, those specific issues, if any, on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

13. Notes with appreciation the Commission's ongoing review of its cooperation and relationship with other bodies concerned with international law, and requests the Commission, in consultation with the Secretary-General, to consider further the implementation of article 16, paragraph (e), and article 26, paragraph 2, of its statute;

³ Official Records of the General Assembly, Fifty-first Session, Supplement No. 10 and corrigendum (A/51/10 and Corr.1), annex I.

⁴ Ibid., Fifty-second Session, Supplement No. 10 (A/52/10), para. 221.

14. Notes that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make comments and observations on drafts submitted by the Commission and in formulating their comments and observations;

15. Reaffirms its previous decisions concerning the role of the Codification Division of the Office of Legal Affairs of the Secretariat and those concerning the summary records and other documentation of the International Law Commission;

16. Once again expresses the wish that seminars will continue to be held in conjunction with the sessions of the International Law Commission and that an increasing number of participants from developing countries will be given the opportunity to attend those seminars, appeals to States that can do so to make the voluntary contributions that are urgently needed for the holding of the seminars, and requests the Secretary-General to provide the seminars with adequate services, including interpretation, as required;

17. Requests the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the fifty-second session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

18. Expresses its appreciation to the Secretary-General for the organization of a colloquium on the progressive development and codification of international law which was held on 28 and 29 October 1997 for the commemoration of the fiftieth anniversary of the establishment of the International Law Commission;

19. Welcomes the decision of the International Law Commission to hold a two-day seminar on 22 and 23 April 1998 in Geneva to celebrate the fiftieth anniversary of the Commission;

20. Recommends that the debate on the report of the International Law Commission at the fifty-third session of the General Assembly commence on 26 October 1998.



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SIXTH COMMITTEE
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REPORT OF THE INTERNATIONAL LAW COMMISSION
ON THE WORK OF ITS FORTY-NINTH SESSION

Draft resolution proposed by the Chairman

Report of the International Law Commission on the work
of its forty-ninth session

Corrigendum

1. Paragraph 2 (a), last line
Delete , as requested by the Commission
2. Paragraph 4, end of the paragraph
Add , and of the views expressed by Member States on the matter

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